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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,753	05/04/2005	Nathalie Dorothee Pieternei Leurs	NL 021107	6704
24737	7590	11/16/2006	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS				LEWIS, ALICIA M
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ART UNIT		PAPER NUMBER		
		2164		

DATE MAILED: 11/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/533,753	LEURS, NATHALIE DOROTHEE PIETERNEL
	Examiner Alicia M. Lewis	Art Unit 2164

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 04 May 2005.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-18 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-18 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 04 May 2005 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

*Sam Rimell*  
SAM RIMELL  
PRIMARY EXAMINER

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Information Disclosure Statement***

2. The information disclosure statement filed March 15, 2006 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

### ***Drawings***

3. The drawings are objected to because the unlabeled rectangular boxes shown in the drawings should be provided with descriptive text labels. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary,

the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

4. The disclosure is objected to because of the following informalities: the word "programs" is misspelled numerous times throughout the specification.

Appropriate correction is required.

***Claim Objections***

5. Claim 7 is objected to because of the following informalities: there is no period at the end of the claim. Appropriate correction is required.

6. Claim 10 is objected to because of the following informalities: The claim appears to be contradictory because a user preference profile addition is a part of a user preference profile. Appropriate correction is required.

***Claim Rejections - 35 USC § 101***

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-16 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The language of the claims raises a question as to whether the claim is directed merely to an abstract idea which would not result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C 101. The method of claims 1-15 does not produce a tangible result.

Furthermore, claim 16 is not limited to tangible embodiments. In view of applicant's disclosure, specification page 13, lines 10-17, the medium is not limited to tangible embodiments, instead being defined as including both tangible embodiments (e.g., hardware) and intangible embodiments (e.g., computer software). A computer software program is not statutory subject matter. As such, the claim is not limited to statutory subject matter and is therefore non-statutory.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section

351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1-10, 16 and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Hunt et al. (US Patent Application Publication 2002/0078056 A1) ('Hunt').

With respect to claims 1 and 16, Hunt teaches:

determining a user preference profile (paragraph 26 lines 10-15);

detecting a content item interest (Figure 3, paragraphs 27 and 28);

determining if the content item interest does not correspond to the user preference profile (elements 305 and 310 of Figure 3, paragraph 28 lines 1-10); and if so

determining a temporary user preference profile in response to the content item interest (paragraph 37);

determining if other content items associated with the temporary user preference profile achieve high user preference values (paragraph 23) and only if so, modifying the user preference profile in response to the temporary user preference profile (paragraph 37).

With respect to claim 2, Hunt teaches wherein a number of preference content items associated with the temporary user profile are recommended to the user (paragraph 28).

With respect to claim 3, Hunt teaches wherein the step of determining if other content items achieve a high user preference value comprises determining a selection rate of the preference content items (paragraph 23).

With respect to claim 4, Hunt teaches wherein the number of preference content items recommended before deciding whether to modify the user preference profile depends on the selection rate (paragraphs 28 and 37).

Hunt teaches in paragraph 28 (Figure 3) that songs are constantly recommended until the user logs out, and then the learned data is stored in the user profile. Therefore, the selection rate, or how quickly a user pushes the “next” button while logged in, affects how many items (songs) he/she will be recommended before logging out (modifying the user profile). Also, in paragraph 37, Hunt teaches that once it is determined that the user is passively listening or not listening (data is not being selected), the data is not stored in his/her profile. However, once the user makes a selection (pushes the “next” button), the user profile is modified.

With respect to claim 5, Hunt teaches wherein the step of determining if the other content items achieve a high user preference value comprises determining a user rating of at least some of the preference content items (paragraph 29).

With respect to claim 6, Hunt teaches wherein the number of preference content items recommended before deciding whether to modify the user preference profile

depends on the user rating of at least some of the preference content items (paragraphs 28 and 29).

Hunt teaches in paragraph 28 (Figure 3) that songs are constantly recommended until the user logs out, and then the learned data is stored in the user profile. Therefore, the user rating, which is judged on how quickly a user pushes the "next" button while logged in, affects how many items (songs) he/she will be recommended before logging out (modifying the user profile).

With respect to claim 7, Hunt teaches further comprising the step of modifying the temporary user preference profile in response to the user preference values of the other content items (paragraph 37).

With respect to claim 8, Hunt teaches wherein the modification of the user preference profile is realized by including a user preference profile addition (paragraph 25 lines 1-2).

With respect to claim 9, Hunt teaches wherein the user preference profile addition is temporary (paragraph 37 lines 7-8, paragraph 38 lines 6-9).

With respect to claim 10, Hunt teaches wherein a dynamic update characteristic of the user preference profile addition is different from a dynamic update characteristic of the user preference profile (paragraphs 38 and 24).

With respect to claim 17, Hunt teaches:

a recommender processor for determining a user preference profile (Figure 1, paragraph 26 lines 10-15, paragraph 22);

a user interface controller for detecting a content item interest (Figures 1 and 8, paragraphs 27 and 28);

wherein the recommender processor is operable to determine if the content item interest does not correspond to the user preference profile (elements 305 and 310 of Figure 3, paragraph 28 lines 1-10); and if so, to

determine a temporary user preference profile in response to the selected content item (paragraph 37); and

determine if other content items associated with the temporary user preference profile achieve high user preference values (paragraph 23) and only if so, modifying the user preference profile in response to the temporary user preference profile (paragraph 37).

### ***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

11. Claims 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hunt et al. (US Patent Application Publication 2002/0078056 A1) ('Hunt') in view of Hosken (US Patent 6,438,579 B1).

With respect to claim 11, Hunt teaches claim 1, wherein the content item interest is detected from a user's response to songs (paragraph 23).

Hunt does not explicitly teach the detection of a user selection of a content item.

Hosken teaches a filtering system for recommending entertainment oriented content items (see abstract), in which he teaches wherein the content item interest is detected from a detection of a user selection of a content item (column 6 lines 51-61).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Hunt by the teaching of Hosken because detection of a user selection of a content item would enable the user's relative interest in particular items to be captured and used for development of interest profiles, which are used to provide content recommendations (Hosken, column 3 lines 16-34).

With respect to claim 12, Hunt as modified teaches further comprising the step of recommending the content item for initial selection (Hunt, Figure 3, paragraphs 27 and 28).

With respect to claim 13, Hunt as modified teaches wherein the recommendation of the content item is in response to an increase of preference values of other users for content items associated with the content item (Hunt, paragraph 27; Hosken, abstract).

With respect to claim 14, Hunt as modified teaches further comprising the step of receiving topic interest information from an external source and wherein the content item interest is detected in response to the topic interest information (Hosken, column 9 lines 39-65).

With respect to claim 15, Hunt as modified teaches wherein the external source comprises at least one source chosen from the group of newspapers, websites, and broadcast sources (column 9 lines 39-45).

12. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over unpatentable over Hunt et al. (US Patent Application Publication 2002/0078056 A1) ('Hunt') in view of Huper-Graff et al. (US Patent Application Publication 2004/0044677 A1) ('Huper-Graff').

With respect to claim 18, Hunt teaches a recommender as claimed in claim 17. Hunt does not teach a private video recorder.

Huper-Graff teaches a method of personalizing information and services from various media sources (see abstract), in which he teaches a private video recorder (paragraph 2 lines 12-16).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Hunt by the teaching of Huper-Graff because a private video recorder would enable classification of information sources (content and services alike) to provide the user with personalized data content recommendations (Huper-Graff, paragraph 8). Furthermore, Hunt's recommendation system could be used with television, wherein the PVR would follow user behavior and record what seems to be relevant shows for the user.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Lewis whose telephone number is 571-272-5599. The examiner can normally be reached on Monday - Friday, 9 - 6:30, alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Rones can be reached on 571-272-4085. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Alicia Lewis  
November 8, 2006



SAM RIMELL  
PRIMARY EXAMINER